

A  
MEMOIR

ON  
THE CONTROVERSY

BETWEEN

WILLIAM PENN AND LORD BALTIMORE,  
RESPECTING THE BOUNDARIES OF PENNSYLVANIA AND MARYLAND.

BY

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## A MEMOIR, ETC.\*

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THE disputes which occurred in times almost forgotten, between the Proprietaries of Pennsylvania and Maryland, respecting the boundaries of their provinces, afford a subject of curious, if not useful speculation. Their rise, progress, and termination, form not only an amusing portion of the history of the early transactions of our country, but are important, as intimately connected with the land titles of that part of the State which lies within the limits of the disputed territory.†

The clashing of the many grants made with such lavish profusion by the sovereigns of Europe, of the

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\* A short Memoir of the author of this Essay will be found in Note II., at the end of volume.—EDITOR.

† Since this Paper appeared, much light has been thrown upon the subject of the boundary line between Pennsylvania and Maryland, in the following publications:

“MINUTES of the Proceedings before the Hon. JOHN SERGEANT, of Philadelphia, in the matter of the Pea Patch Island. Referred to him as sole Arbitrator.” United States Senate (Executive) Document, No. 21, 30th Congress, 1848.

REPORT of Col. J. D. GRAHAM, of Corps of Topographical Engineers. Pennsylvania Senate Journal, 1850, Vol. II., p. 475.

savages and soil of the New World, arose from their entire ignorance of the country. The thirst for gold, the spirit of adventure, and zeal of religious enthusiasm, all demanded, clamorously, a participation in the wealth, independence, or retirement, which were fondly anticipated to flow from the mighty discoveries of Cabot and Vespucci. By virtue of the fancied right of priority of discovery, the Crown of England not only claimed but exercised the power of parcelling the extensive coasts and territories of North America amongst her favorite countries or troublesome subjects.

Whether this assumed authority was better founded than that which flowed from Papal supremacy to the sovereigns of Spain and Portugal, or the vacillating tenure of the thinly-scattered and savage aborigines, it is now more curious than useful to inquire. For, however well founded the title derived from such sources might originally have been considered, time, possession, and power have given them a stability which nothing can endanger but the weakness and corruption of the holders.

From an ignorance of the geography of the dark and boundless wilderness which was so generously divided, the limits of the numerous grants were so vaguely desig-

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The HISTORY of Mason and Dixon's Line, contained in an Address, delivered by JOHN H. B. LATROBE, of Maryland, before the Historical Society of Pennsylvania, November 8th, 1854. Press of the Society, Philadelphia, 1855.

MASON AND DIXON'S LINE: a History,—including an Outline of the Boundary Controversy between Pennsylvania and Virginia. By JAMES VEECH. Pittsburg, 1857, pp. 58.—EDITOR.

nated as invariably to create confusion, and embroil the claimants in difficulties and resentments, which required the labor and patience of years to settle and allay.

In the year 1681, when the Charter was granted to William Penn, the distinguished Founder of Pennsylvania, by Charles II., King of England, almost the whole country included in its limits was an uncultivated wild; and to what extent the country was settled at the date of the Charter, it would, perhaps, be difficult, and, from the means of information within the reach of the author, impossible to ascertain with satisfactory certainty. As early as 1627,\* the Swedes and Fins had formed establishments within the Capes of Delaware; and, in 1630, Proud (1 Hist. Penn., pp. 115, 116) says, that the Dutch, or, as Bozman (Hist. Maryland, p. 245) thinks, the Swedes had built a fort at a place now called Lewistown, in the State of Delaware; and in the year following, the Swedes had pushed their fortifications above Wilmington,

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\* It has already been stated, in a note at page 70, that this date is incorrect, for the Swedes did not arrive until 1638. Bozman was led into the error by Proud, whom he quotes; and although the latter is right in asserting that the Dutch, in 1630, built a fort at "Lewistown," the former is wrong in supposing that it was the Swedes who did so. The region was called by the Dutch Swanendael, also Hoornkill, a designation probably given by De Vries, in compliment to his father, a resident of Hoorn, a town in the Netherlands, which was subsequently corrupted into Hoarkill.

The unfortunate Dutch colonists who arrived under De Vries, in 1630, and were the first Europeans that attempted to establish themselves on the western side of the Delaware, did not long survive: for, after the departure of that navigator, a misunderstanding having arisen between them and the Indians, the latter treacherously murdered the entire colony, consisting of thirty-two souls—EDITOR.

and as high up as Chester. The Swedes, says the same author (1 Pr., 205), had a Meeting House at Wicocoa, now within the suburbs of Philadelphia; and the Friends one at Upland or Chester, another at Shackamaxon or about where Kensington now stands, and a third at the lower Falls of the Delaware (Id., 160, 161), meaning, I presume, the Falls at Trenton, as there are no Falls below that place. Proud says, that there was not a single house built on the site of Philadelphia when it was laid out by the Proprietary and his Surveyor, Thomas Holme, in 1682; and that on his arrival, the first house building by George Guest, "on this spot of ground," was unfinished; and that at that time, many of the early settlers and adventurers had their holes or caves for their residence in the high bank of the Delaware, before any houses were built or better accommodation prepared for them. But there is no doubt that the country, in 1681, was partially settled along the bank of the river, as high as the Falls (1 Pr., 160, 161), near to where Philadelphia now stands, as Penn himself, in a letter to the Society of Freetraders, in August, 1683 (1 Proud, 260, 261), says, that "the Dutch mostly inhabit those parts of the province that lie upon or near the bay, and the Swedes the freshes of the river Delaware;" and Proud says (1 Hist. Penn., 233), that the site of the city itself was claimed by some Swedes, with whom Penn exchanged other lands at a small distance for it.

It is impossible to say to what extent the *English* had made settlements within the limits of what is now the State of Pennsylvania, as early as the date of William

Penn's Charter; but that they had long exercised dominion over the country west of the bay and river Delaware, abundantly appears from the records of the proprietary government of New York (certified copies of which are on record in the office of the Secretary of the Commonwealth at Harrisburg). Charles II. had granted to his brother, the Duke of York, in 1664, an immense territory in America, embracing the Dutch settlements at New York, and extending southward to the eastern shore of the bay and river Delaware; and the Duke, in the same year, issued a commission to Sir Robert Carr, to subdue their possessions on the eastern shore; and after the conquest, which was easily effected, governed the country as an *appendage* to his province of New York, by his lieutenants, till 1682, when he released his interest to William Penn. There is no evidence of actual settlements made within the limits of Pennsylvania, amongst the records alluded to, but of a continued and anxious care over the country on the west side of the bay and river Delaware, by the Governors of the Duke, residing at New York; and amongst the same documents, is an Indian deed, of as early date as 1675, to Edmund Andros, Governor and Lieutenant of the Duke, for land lying at least twenty miles above Philadelphia. This deed is, perhaps, the earliest made by the aborigines to the *English*, of lands on the western shore of the Delaware, and exhibits a curious but not uncommon uncertainty of boundary, that strongly displays the ignorance of the whites of the topography of the country. It describes the land as "lying on the west side of Delaware River, beginning at a certain

creek next the cold spring, somewhat above Matinicum\* Island, about eight or nine miles below the Falls, as far above the said Falls as the other is below them, or furthest that way, as may be agreed upon, to some remarkable place, for the more certain bounds; as also, all the islands in the river Delaware within the fore-mentioned limits, both below and above the Falls, excepting only one island, commonly known by the name of Peter Alrick's Island, together with all the creeks, &c., &c., to the said tract of land belonging along the river and *behind into the woods,*" &c. The consideration, amongst the detail of ammunition, clothing, &c., exhibits the amusing predilection of the grave Sachems for fifty looking-glasses and one hundred jewsharpes. It also contains covenants of seizin and quiet enjoyment, breaches of which, I presume, could only be effectually tried by the sword. This tract of country was selected probably for the peculiar excellence of its soil, and patents were granted for it by Andros to English settlers before the country bore the name of Pennsylvania (1 Proud, 217). The lands below at that time remained in the tenure of the Indians, as a commission was three years afterwards issued by Andros to Cantwell and Hannum, to purchase from the savages the land as yet unpurchased from the Indians, "below the late purchase at the Falls, on the western shore of Delaware River."

The Charter of Maryland, which its proprietor had in-

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\* Now called Burlington Island, lying between Burlington and Bristol.—Upland Record, in note, p. 141,—Memoirs of Historical Society, Vol. VII.—EDITOR.



tended to call *Crescentia*, but which was designated by his majesty, when the Charter was presented to him, *Terra Maria*, in honor of his Queen, *Henrietta Maria*, was granted by Charles I., in 1632, to Cecilius Calvert, Baron of Baltimore, his “well-beloved and trusty servant.” This grant, reciting the pious and laudable zeal of the Baron of Baltimore for extending the Christian religion and the territories of the empire, and his desire to transport, by his own industry and expense, a numerous colony to a certain region hereafter described, in a country *hitherto uncultivated* in the parts of America, and *partly* occupied by savages having no knowledge of the Divine Being, transferred unto him, his heirs and assigns, all that part of the peninsula or *Chersonese* lying in the parts of America between the ocean on the east and the Bay of Chesapeake on the west, divided from the residue thereof by a right line drawn from the promontory or headland called Watkins’ Point, situate upon the bay aforesaid, near the river Wighes, on the west, unto the main ocean on the east, and between that boundary on the south unto that part of the *bay* of Delaware on the north which lieth *under the fortieth degree* of north latitude, from the equinoctial, *where New England is terminated*: and all the tract of that land within the metes under-written (that is to say), passing from the said bay called Delaware Bay, in a right line, by the degree aforesaid, unto the true meridian of the first fountain of the Potomac, thence verging towards the south unto the southern bank of said river, and following the same, &c.

The Lords Baltimore may well be excused for pressing

their claims under this grant as extensively as they did, and which its terms seemed so strongly to justify; but there were two hidden sources of uncertainty lurking under the language of their Charter, which cost the Proprietaries of Maryland many years of vexation and expense.

In 1681, King Charles II. granted to William Penn the Charter for the province of Pennsylvania. This venerable document, which is in the office of the Secretary of the Commonwealth, is written upon large rolls of strong parchment, in the old English handwriting, with each line underscored with lines of red ink, that give it a curious appearance. The borders are gorgeously furbelowed with heraldic devices, and the top of the first page exhibits a finely-executed half-length portrait of his majesty, in good preservation. Though not quite a century and a half old, it may justly be designated a valuable piece of American antiquity. The Charter designates the province of Pennsylvania as "That tract of country or part of land in America, with the islands as therein contained, as the same is bounded on the east by Delaware River, from twelve miles distance northward of Newcastle town, unto the forty-third degree of north latitude, if the said river doth extend so far northward, but if the said river shall not extend so far northward, then by the said river so far as it doth extend; and from the head of the said river, the eastern bounds are to be determined by a meridian line, to be drawn from the head of the said river to the said forty-third degree. The said land to extend westward five degrees of longitude, to be com-

pleted from the said eastern bounds; and the said lands to be bounded on the north by the beginning of the three and fortieth degree of north latitude, and on the south by a circle to be drawn at twelve miles' distance from Newcastle *northward and westward* unto the *beginning of the fortieth degree* of north latitude, and thence by a straight line westward to the limits of the longitude above mentioned."

PENN, it is said, (Proud's Hist. Pa., 188, 2 ed., 208, n.), claimed under this Charter unto the beginning of the fortieth degree of north latitude, which would be where the thirty-ninth degree terminated. But as I have seen no evidence of such preposterous claim from Penn himself, and as it involves the manifest absurdity of a radius of twelve miles from Newcastle *northward* intersecting a degree of latitude lying so much further south, it is probable it was never seriously urged. The ignorance of the King's Council of the geography of the country, I have no doubt, led them to believe that the thirty-ninth degree of north latitude lay twelve miles *north* of Newcastle, as they were probably guided in their description by the chart of the celebrated Captain John Smith; but as it did not in fact, and the bounds were fixed by the twelve mile radius northward of Newcastle, there was no pretension to extend it further south than the twelve miles north of that place.

It was highly important to the proprietor of Pennsylvania to extinguish the claims of the Duke of York, who claimed and exercised jurisdiction upon the western shore of the bay and river Delaware, as an appendage to his

government of New York; as the procuring his title to that country would enlarge his seaboard, which his sagacious eye perceived was wanted, prevent any future interference with his province itself, and afford an extensive outlet to the produce of his planters. [Penn's Letter to the Lords of the Plantations, 1 Proud's Hist., 270-7.]

Opposite as the religious and political opinions of William Penn and James, Duke of York, certainly were; and as we must believe, in spite of the angry conclusions of the Historical Review (p. 18), drawn from the ridiculous stories of the times, the former always was a particular favorite of the latter. Penn, therefore, through his influence with the Duke, obtained from him in the year succeeding the date of his Charter, in consideration of his regard for the memory and many faithful services of Admiral Penn, a deed of release of all the claim of his royal highness to the country within the limits of Pennsylvania, and a grant of his claim to the country on the western side of the Bay of Delaware, as far south as "Whoarkill, otherwise called Cape Hinlopen," including the town of Newcastle and a district of twelve miles around it, and what were afterwards called by Penn the counties of Newcastle, Kent, and Sussex. This tract of country was long afterwards known by the name of the territories of Pennsylvania, and the then lower counties of Newcastle, Kent, and Sussex, and now constitutes the State of Delaware. It appears, from the manuscript sketch of the notes of Mr. Hamilton, of the testimony taken under the commissions issued in the famous cause in Chancery, in England, between the Penns and Lord

Baltimore (and now in the Land Office at Harrisburg), that these counties, in more ancient time, were called New Amstel, New Hale, and Whoarkill. Sussex maintained the name of Whoarkill until after the surrender of the country to William Penn.

The Proprietary of Pennsylvania found himself immediately on his arrival in America, in 1682, involved in extreme difficulties respecting the conflicting claims, of Charles, Lord Baltimore, the son of Cecelius, the original patentee of Maryland, not only as respected the western shore of the Bay of Delaware, but also as to the southern limits of his province of Pennsylvania.

The latter claimed with much plausibility, according to the terms of his grant, not only the whole "Chersonese or peninsula, between the Bay of Chesapeake and Delaware," but all the lands lying "under the fortieth degree of north latitude;" as respected the peninsula, it was objected that, as his grant only contemplated the transfer of lands which were "*hactenas inculta*," it could not include the western shore of Delaware, which had been settled several years before its date by the Swedes and Dutch. If this obstacle to the literal construction of his Charter could have been surmounted, Lord Baltimore had a clear right to the whole peninsula; but it is apparent, if the settlements of the Swedes and Dutch had been effected before 1632,\* the king had no right to transfer the territory of other nations, and which did not appertain to the Crown of England. That such settlements had been

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\* See note at page 167.—EDITOR.

effected at that early period seems incontrovertible, and that Lord Baltimore was aware of their existance is admitted by *Kilty*, in his *Landholder's Assistant* (p. 165), as he had been in Virginia shortly before the date of his Charter. And, indeed, Governor Stuyvesant, in a manifesto he transmitted to Lord Baltimore, respecting the claim of the Dutch to the shores of Delaware Bay, asserts their having had a settlement at Cape Henlopen as early as before the planting of Virginia, but that it had been destroyed by the Indians.

Yet it seems very unlikely that the King's Council could have been entirely ignorant of those settlements or of Clayborne's, on Kent Island, in the Bay of Chesapeake, and it is probable that the phrase "*partly inhabited*," in the preamble to the Charter, was inserted purposely to embrace any settlements within its limits.

But it was afterwards alleged against the validity of his lordship's Charter, that his majesty was deceived in the representations made to him of the country being wholly uncultivated, and that therefore the Charter was void, at least so far as respected the cultivated parts. The law of England holding, with courteous deference to royal grantors, that if the king was deceived in the grant, or granted a greater estate than he had himself, the grant was wholly invalid (1 Co., 144; Com. Dig. Grant, 8 G.; 1 Ves., 452). This doctrine always operated beneficially for the Crown; and amounted, during the terrors of the Star Chamber, to saying that royal donors might revoke their Charters whenever it suited their policy or convenience. This imputation upon the validity of Lord Balti-

more's Patent was stated in the bill (said to have been penned by Mr. Murray, afterwards Lord Mansfield,—*Bozman's Maryland*) filed in Chancery, in England, by the *Penns v. Lord Baltimore*, the trial of which is reported in 1 Ves., 450. The grant, however, was void, or might be construed to pass all the right of the Crown, such as it was, to the settled parts of the country, just as his majesty might be pleased to decree; and as they were afterwards reduced by the British arms, they might have been considered as inuring to the use of the patentee.

The grant of Maryland was at least as valid as that made in 1664, by King Charles II. to his brother James, Duke of York, of the Dutch settlements, called by them the New Netherlands, embracing in part what is now the States of New York and New Jersey, at a time when the English government and the States generally were at peace, and in violation of Oliver Cromwell's treaty of 1653, which guaranteed to the Dutch the full enjoyment of their possessions in America. It is true, that at that time the two governments were not on very good terms, and were growling at each other no little, but there was no open rupture to justify the proceeding or add validity to the grant, as war did not break out till several months afterwards. [6 Hume's Hist. Eng., 283.]

The Duke of York conquered not only the Dutch settlements within the limits of his grant, which was bounded westward by the bay and river Delaware, but in the same year commissioned Sir Robert Carr to subdue their possessions on the eastern shore of the same bay and river;

and after their reduction, which was easily effected, exercised sovereignty over them as an appendage to his government of New York, till 1682, when he transferred his claim to the western shore and Bay of Delaware to William Penn.

Lord Baltimore's claim to the land lying under the fortieth degree of north latitude, agreeably to the language of his Charter, was urged with equal plausibility and as little success. He insisted, with much apparent reasonableness, that the words "which lieth under the fortieth degree of north latitude," in his Charter, meant certainly a northward extension of his boundary beyond the termination of the thirty-ninth, and that he was entitled, by the plain and express words of his Patent, to extend his limits to the forty-first degree of north latitude, and embrace the whole fortieth degree. But the weakness of his claim to the country north of the thirty-ninth degree will be manifest, when we reflect that his Charter limits his northern boundary expressly to the "Bay of Delaware," and that consequently he could not, without going beyond a designated natural monument of his boundaries, extend his northern line beyond the point where the bay terminates, and that the limits of the Patent must be construed with reference to the information of the country before the Council, when it was granted. That information, it would seem, consisted entirely of the historical account and chart of that part of the New World, by the celebrated Captain John Smith, as is alleged in the Bill of Chancery already mentioned, and supported by the testimony taken under the



commissions issued to America in that cause, as appears by the rough drafts of it taken for the Penns by Mr. Hamilton, and on file in the office of the Secretary of the Land Office of Pennsylvania. James Logan deposed "that Captain Smith's History of Virginia was the best, as it was the first book published by any Englishman of that country; and that his map of the Chesapeake Bay, so called at that time, and the parts adjacent, was the most correct account of the first discoveries of a new country he had ever seen; and that he neither knew or believed any other account, or drafts, or maps of that country, were published before 1632," the date of Lord Baltimore's Charter; and testimony of a similar import was taken from other witnesses well acquainted with that part of the country. As these charts, it appears, fixed the fortieth degree of north latitude at the head of the Bay of Delaware, and, if the Charter was to be construed with reference to the intelligence before the Council, at the time it issued, as was the opinion of the Attorney and Solicitor-Generals, Ryder, Yorke, Willes, and Weary, the northern limits should be restricted to those natural boundaries by which they were designated, and not as the latter remarks, "by an imaginary point of the heavens," although subsequent and more accurate observations might have ascertained that latitude to lie much further north than the head of the bay.

Lord Baltimore alleged that the fortieth degree of north latitude had been ascertained, and part of the line run in 1681, in pursuance of a letter of the king; but the Proprietary of Pennsylvania denied that any such line

had been run, and that if any attempt had been made for that purpose, it was done without his knowledge or consent by Lord Baltimore's agents (1 Proud, 277), and in violation of his Charter. The claims of Maryland were asserted with continued acrimony, violence, and occasional bloodshed, and as pertinaciously resisted, until they were finally terminated and abandoned in 1760, by the mutual agreement of the parties.

As the Duke of York claimed, by right of conquest, the settlements on the western shores of the Bay of Delaware, and had, by his deed of 1682, transferred to William Penn his title to that country, embracing the town of Newcastle and twelve miles around it (as a reasonable portion of land attached to it), and as far down as what was then called Cape Henlopen; an important subject of controversy was the true situation of that cape, and the ascertainment of the southern and western boundaries of the country along the bay, as transferred by the Duke's deed.

Though Charles, Lord Baltimore, as I have heard, was a man of the fashionable world, and deeply devoted to its pleasures, yet he was by no means inactive in the protection of his interest and in the prosecution of his claims. After two personal interviews in America, the Proprietaries separated without coming to any arrangement and with mutual recriminations and dissatisfaction. And they each wrote to the Lords of Plantations, excusing themselves and blaming the other. In 1683, Lord Baltimore petitioned the king to make Penn no fresh or confirmatory grant, and urged the plausibility of his own

claims (1 Proud's Hist., 293); and, in the same year, issued a proclamation, offering lands at lower rates than usual within the disputed territory (Vid. 265, N.), for the purpose of inducing settlers to take out their titles under his government. The issuing of those proclamations he afterwards very uncandidly denied to Penn's agent, until his memory was refreshed by their production, and then refused to recall them, alleging (1 Proud's Hist., 272) that they proclaimed only the ancient prices. In the same year, he commissioned Colonel Talbot to demand of William Penn all the lands lying south of the forty-first degree of north latitude (1 Proud, 374); and his agents shortly after made several attempts, by force, to reduce to submission to his authority the planters who lived in the disputed borders under Pennsylvania titles, and kept the country in continual alarm.

At length, in 1685, one important step was taken towards the decision of the conflicting claims of Maryland and Pennsylvania, by a decree of King James' Council, which ordered, "that for avoiding further differences, the tract of land lying between the Bay of Delaware and the eastern sea, on the one side, and the Chesapeake Bay on the other, *be divided* into equal parts, by a line from the latitude of *Cape Henlopen*, to the fortieth degree of north latitude, the southern boundary of Pennsylvania by Charter; and that the one-half thereof, lying towards the Bay of Delaware and the eastern sea, be adjudged to belong to his majesty, and the other half to Lord Baltimore, as comprised in his Charter." (1 Proud, 293, N.) The power of the King's Council to decide

upon disputed proprietary boundaries, and to enlarge or restrict their limits, is fully recognized in the several opinions of the eminent Council already alluded to, unless when the parties had entered into agreement to settle their disputes themselves.

This decree of King James, which evidently exhibits a partiality towards the claims of Penn, in decreeing the eastern half of the peninsula to his majesty, with whom Lord Baltimore could not presume, and indeed had declined to dispute, instead of to the Proprietary himself, by no means removed the difficulties which hung over this tedious, expensive, and vexatious litigation. For, as we will hereafter see, there existed as much uncertainty with respect to the true situation of Cape Henlopen, and the ascertainment of the middle of the Peninsula, as any points in contest.

However, after continued altercation between the Proprietaries and their respective settlers, which was interrupted and perhaps protracted by the death of William Penn, in 1718, and the death of the first Charles, Lord Baltimore, who escaped from his worldly troubles in 1714, his grandson of the same name, and great grandson of Cecilius, the original patentee, entered into articles of agreement with John Penn, Richard Penn, and Thomas Penn (who had become, by the Will of their father, sole Proprietaries of his American possessions), on the 10th of May, 1732, which I suppose they fancied would settle their respective boundaries to their mutual satisfaction.

By this celebrated agreement, amongst other things not so important to the object of this essay, it was

mutually covenanted and agreed, that the chart annexed to the agreement, which embraced the country in dispute and the adjacent parts of Maryland, Pennsylvania, and Virginia, was a correct impression of the charts sent over to the contracting parties; that they would regulate their negotiations by it; that a semicircle should be drawn at twelve English statute miles around Newcastle, agreeably to the deed of the Duke of York to William Penn, in 1682; that an east and west line should be drawn, beginning at Cape Henlopen (which was admitted to be below Cape Cornelius) and running westward to the exact middle of the Peninsula; that from the exact middle of the Peninsula, between the two bays of Chesapeake and Delaware, and the end of the line intersecting it in the latitude of Cape Henlopen, a line should be run northward, so as to form a tangent with the periphery of the semicircle at Newcastle, drawn with the radius of twelve English statute miles, whether such line should take a due north course or not; that, after the said northwardly line should touch the Newcastle semicircle, it should be run further northward, until it reached the same latitude as fifteen English statute miles due south of the most southern part of the city of Philadelphia; that from the northern point of such line a due west line should be run, at least for the present, across the Susquehanna River and twenty-five miles beyond it, and to the western limits of Pennsylvania, when occasion and the improvements of the country should require; that that part of the due west line not actually run, though imaginary, should be considered to be the true boundary of Mary-

land and Pennsylvania; that within two months, seven Commissioners should be appointed by each of the contracting parties, any three or more of whom should be a quorum, to run and mark the said boundaries; that the Commissioners should commence their operations as early as October and finish in December of the same year, with all fairness and despatch; that the route should be well marked by trees and other natural objects, and designated by stone pillars, sculptured with the arms of the contracting parties, facing their respective possessions; and that, in case a quorum of the Commissioner of either party failed to attend, that the defaulting party should forfeit to the other the sum of five thousand pounds.

This important document, though drawn with all imaginable skill and precision, from heads furnished by the high contracting parties themselves (1 Ves., 451), and seemingly so free of ambiguity, yet was afterwards the subject of much litigation and cavil, both in England and America. But as it was finally carried into complete effect in all its parts, it affords information highly interesting. It accounts for the boundaries of what is now the State of Delaware, then called the three lower counties of Newcastle, Kent, and Sussex; and explains why the point which is noticed on the maps, was produced between the semicircle around Newcastle and the line running through the Peninsula and past the place of contact with it, to within fifteen miles south of the latitude of Philadelphia.

The developement of the negotiations between Lord Baltimore and the Proprietary of Pennsylvania shows

the anxiety and vexation suffered, and the immense expense incurred by both parties in ascertaining the limits of their respective grants. In the agreement of 1732, each party fancied they had made important concessions and sacrifices for the sake of peace. That Lord Baltimore really thought so, there can be little doubt; for he seems by his Charter, if it was valid at all, to have a very plausible pretension, not only to all the uncultivated lands covered by the fortieth degree, but even to the cultivated shores of the Bay of Delaware. Taking from him however the settled country in that quarter at the date of his grant in 1632, and which reached perhaps up nearly to Philadelphia, and leaving the settlements a reasonable portion of back country, he might well suppose himself entitled fairly to extend his northern limits to the beginning of the forty-first degree of north latitude, instead of stopping fifteen miles below that city. This would have given him a strip of land now forming a very valuable portion of Pennsylvania, constituting a great part of what is now the counties of Philadelphia, Chester, Lancaster, York, Adams, Franklin, Bedford, Somerset, Fayette, and Greene. The Penns evidently were gainers by the agreement, and made no concession of territory. They certainly had the advantage of the Maryland Proprietaries in coolness and circumspection, and the disputes, however tedious, expensive, and irksome to them, must have been equally so to him. William Penn possessed, during his whole life, the advantage of Lord Baltimore, in his favor at court. He was upon the most intimate footing with King James, so much so, indeed, as

to have been currently suspected, as he says himself, of being a Jesuit. He had, as well as his father, Admiral Penn, not only rendered important personal services to that Prince, but inculcated the doctrine of passive obedience, and of rendering unto Cæsar the things that are Cæsar's,—a doctrine so sweet and soothing to the royal ears of the house of Stewart. After the revolution, though William Penn was in disgrace at court, in the reign of King William, on account of his constancy to his unfortunate benefactor, yet Lord Baltimore was no less so, as being a Roman Catholic, and on account of some delay in proclaiming in his province the accession of the Protestant dynasty, and was strongly threatened with deprivation of Charter by *scire facias*. The claims of Penn, during James' reign, were somewhat the cause of the Crown; and, in King William's time, they were actually so, as the Crown had then resumed the government of Pennsylvania and its territories. And in the reign of Queen Anne, as the British Government were in treaty with the Proprietary of Pennsylvania, for the entire purchase of his rights to his provinces, for the sum of twelve thousand pounds, and had actually paid him one thousand pounds upon the strength of the negotiation, the Lord Baltimore must have felt the pressure of his situation and the obvious advantage of his opponents, and despaired of ever seeing his pretensions finally successful.

All these untoward circumstances must have influenced the minds of the Lords Baltimore during the progress of the transaction, previous to the agreement of 1732, and



induced them to recede from pretensions which they had persisted in with sufficient pertinacity and violence, and which were abandoned subsequently with much reluctance, and many captious objections.

So far in the progress of those important negotiations, the Lords Baltimore may not be blameable to a great degree, but the transactions which transpired subsequently, and the many frivolous and captious objections, and unreasonable constructions attempted to be put upon their contract of 1732, by their agents, showed more a disposition to oppose and protract than to promote the adjustment of their disputes agreeably to that instrument. Lord Baltimore, it is true, by his counsel, in the argument of the cause in Chancery, in England, which arose out of the agreement, disavowed their conduct, but, at the same time, urged the invalidity of the agreement, on the ground of impositions on the part of the Penns and his own ignorance of the nature of his rights.

Every obstacle seems to have been thrown in the way of carrying the agreement between the parties into operation, by Lord Baltimore and his agents, who manifested an anxious desire to evade its provisions.

The public records at Harrisburg furnish no detail of what transpired between the Commissioners who met at Newcastle, to run the lines as agreed upon, though the minutes of their transactions seems to have been voluminous (Provincial Records, Vol. K., p. 354); and what will be here stated of them, is taken from the articles of agreement entered into between Frederick, Lord Baltimore, and Thomas and Richard Penn, in 1760.

There are great deficiencies in the early public records of the Provincial Government. When the Revolutionary War broke out, they were in the hands of their Secretary, Joseph Shippen, who, I have been informed, when they were peremptorily demanded by the Commonwealth, made a very reluctant and mutilated return, embracing only the books of the provincial records, and excluding all the loose documents of his office.

The Commissioners made little or no progress in effecting the object of their appointment, and were under the necessity of dispersing without coming to any definite arrangements, Lord Baltimore's Commissioners behaving, as Lord Hardwick afterwards remarked (1 Ves., 455), with great chicanery through their whole negotiations.

One of the Commissioners of the Penns arriving half an hour or so later than the period designated, the Maryland Commissioners at first objected to the proceeding, alleging that the contract was broken, and the five thousand pounds penalty forfeited; and when that point was waived, they insisted that the semicircle around Newcastle should be drawn with a *periphery*, and not a radius of twelve miles, thus shutting their eyes to the very words and manifest intention of what the Lord Chancellor declared to be the plainest part of the agreement. They made further difficulties about the *centre* of the semicircle around the town (which it seems, even in those early days, covered a considerable extent of ground), and refused to consider the true situation of Cape Henlopen to be where the Proprietaries themselves had fixed it.

And Lord Baltimore, the year following, 1734, (Kilty's Landholder, p. 171,) in direct violation of his contract, presented a petition to his majesty, praying for a confirmation of his Charter, as made to his great-grandfather, Cecelius, the original patentee; but I believe it was not acted upon, probably on the ground that as the boundaries had been settled by the parties themselves in their articles of agreement, the Council had no authority to interfere, as their jurisdiction was confined to original unsettled conflicting chartered grants of colonial territory; and the consideration of his prayer was postponed, to give the parties an opportunity of trying the validity or abandonment of their articles of agreement of 1732, by a judicial tribunal.

In 1735, John, Richard, and Thomas Penn filed a Bill in Chancery against Lord Baltimore, praying for a decree of specific performance of the articles; which, from the death of John Penn, and the necessity of adding other parties, and the unconscionable delay incident to proceedings in that Court, was not finally pronounced for sixteen years.

In the meantime, the quiet of the provinces continuing to be interrupted, and riots and disturbances occurring from the violence of Maryland pretensions, both parties applied, in 1737, to the King's Council, for some order which should lessen or allay these ferments. A decree was made, but not having been carried into operation was rescinded, and the claimants again appeared personally, and being heard by the Council, the consideration of the subject was adjourned upon an intimation of the

probability of an amicable arrangement. This was happily effected. It was agreed, between the high contracting parties, "that all the vacant land not now possessed by or under either of them, on the *east* side of Susquehanna River down as far as fifteen miles and a quarter south of the latitude of the most southern part of the city of Philadelphia; and on the west side of Susquehanna, as far south as fourteen miles and three-quarters south of the latitude of the most southern part of the city of Philadelphia, should be subject to the temporary and provisional jurisdiction of Pennsylvania; and that to all vacant land not possessed by or under either, on both sides of the Susquehanna, south of the said temporary limits, should be subject to the jurisdiction of Maryland, until the boundaries should be finally settled; and that the provisional and temporary limits, as thus established, should continue until the boundaries were finally settled, but to be without prejudice to either party." And when this convention was reported to the Council, his majesty was pleased to order "That the Proprietaries of the respective provinces of Maryland and Pennsylvania do cause the said agreement to be carried into execution (Provincial Record, Vol. K., p. 61)." The order was accordingly promulgated by proclamation in the provinces, and Commissioners were, the following year, appointed to run the "temporary line:" Richard Peters and Lawrence Growden on the part of Pennsylvania, and Colonel Levin Gale and Samuel Chamberlaine on that of Maryland. These Commissioners commenced their active operations in the spring of 1739; and, after proceeding as far as the eastern

bank of the Susquehanna, were interrupted by the departure of Colonel Gale, on account of death and sickness in his family, and the declaration of Mr. Chamberlaine that he had no authority to continue operations without the attendance of his colleague. The Pennsylvania Commissioners, deeming their power to proceed confined to a united operation with those of Maryland, received further instructions to proceed alone from Governor Thomas. They accordingly did so, and run the line westward of the Susquehanna, "to the most western of the Kittoctinny Hills," which now forms the western boundary of the county of Franklin. There is in the office of the Surveyor-General, at Harrisburg, a copy of their minutes, and a beautiful manuscript colored map of their route. The course run by these Commissioners formed the famous "temporary line," so well known to the lawyers and settlers on the southern boundary of our Commonwealth, and in some measure allayed the turmoil of the provinces.

The cause in Chancery, between the Penns and Lord Baltimore, was not decided until 1750. On the hearing, Lord Baltimore's counsel contended that it could not be carried into effect, on account of its vagueness and uncertainty, and that the contract had been abandoned by the neglect of the Commissioners of Pennsylvania to meet at the time appointed, and that the five thousand pounds penalty was forfeited.

The Lord Chancellor, however, overcame all the objections urged in the argument, which occupied five days, and decreed a performance of the articles of agreement.

He directed that new Commissioners should be appointed within three months after the decree, who should commence their operations in November following (1 Ves. 453). He further ordered that the centre of the semicircle should be fixed as near the centre of the town of Newcastle as may be; that it should be described with a radius of twelve English statute miles, "so that no part of the town should be further than that distance from the periphery, and that Cape Henlopen should be taken to be situated as it was laid down in the chart accompanying the articles of agreement."

The commissioners were appointed agreeably to the decree, and met at New Castle on the 15th November, 1750. They fixed upon the court house of New Castle as the centre for drawing the semicircle, but the captious chicanery of Lord Baltimore's commissioners conjured up a new and unexpected difficulty by insisting that the radii of the semicircle should be measured superficially without allowing for the inequalities of the ground, regardless of the absurd consequences resulting from such modes of measurement in creating inequality in the radii, and the consequent impossibility of describing anything deserving the name of a semicircle. But, as the objection was persisted in, the Proprietaries of Pennsylvania were again under the necessity of a further application to chancery, under the reservations in the former decree, and obtained in 1751 a decision in favor of horizontal measurement.

The commissioners again proceeding in their task, Charles, Lord Baltimore died, but as the peace and happi-

ness of the two provinces depended on the settlement of these protracted disputes, they did not on that account suspend their operations. Having run the semicircle agreeably to the Lord Chancellor's decree with a radius of twelve English statute miles by horizontal admeasurement, and marked it on the ground, they commenced their operations at Cape Henlopen.

Fixing the southern boundary of the three lower counties (now the State of Delaware), at Fenwick's Island, requires explanation, as the chart of the Proprietaries, accompanying their agreement of 1732, gives to the cape opposite Cape May, at the mouth of the Delaware Bay, the name of Cape Cornelius, and the point at Fenwick's Island, that of Henlopen, and the maps of the present day transpose that order. The Swedes on their first arrival in 1672,\* landed at the *interior* cape, afterwards called Inlopen, and named it *Paradise Point* from its pleasant appearance [Bozman's History of Maryland, p. 244]; a fatiguing voyage giving, I presume, a liveliness to their feelings which the view of a sandy bluff, under ordi-

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\* This is a transposition by the printer of 1672 for 1627, the latter being, as already mentioned, an erroneous date. See note pp. 70, 167. The Swedes, although there is no proof of it, may have landed here in 1638, on their way to Christina. If they did, they remained but a few days. That they, however, designated as "Paradise Point," that which De Vries had previously called "Swanendael," is shown by Lindstrom, M.S. map of 1655, where it is named "Paradis udden le Cap de Paradis;" and the present Lewes Creek, the scene of the murder of De Vries' unfortunate colony, "Mordare Kylen, la Rivière des Assassins." It is curious that the stream which empties into the Bay near Jones Creek, should *now* be called "Murder Creek."—EDITOR.

nary circumstances, would not have produced. "This cape," says Proud [1 Hist. Penn., 111], "is frequently confounded with Cape Henlopen, the interior or False Cape at Fenwick's Island, being written in the same manner and sometimes Henlopen. It was formerly called Cape Cornelius, and afterwards by William Penn, Cape James." Bozman [Hist. Maryland, 244] concludes that the confounding of the appellations arose from the addition of the aspirate, which, in the Swedish language, when prefixed to the word Inlopen, altered the sense of it from the *interior* to the *exterior* cape. It is probable that the Swedes might have called the interior Cape Inlopen, and the *exterior* Henlopen, and that when the Dutch encroached upon their neighbors in those parts, they gave the name of Cornelius to the interior cape, leaving the former to its original appellation of Hinlopen. For it appears from Hamilton (MSS. notes of the testimony taken under the commissions issued to America in the chancery cause between the Proprietaries), that in early times "the cape on Fenwick's Island was called Henlopen," and that "South Cape, twenty miles below the mouth of Delaware Bay, was called Cape Hinlopen." One witness said that "False Cape was formerly called Hinlopen in his father's time, who was a pilot living fifteen miles below the mouth of Delaware Bay," and another, that he "had seen Dutch and English maps in which there were two capes laid down (published in 1672) to the south of the entrance into the Delaware Bay, and that the southernmost was called Cape Hinlopen, and the most northwardly, lying at the south side of the entrance,



was called Cape Cornelius;" and Lord Hardwick, in delivering his judgment already alluded to, said (1 Ves., 452), "that it was clear by the proof that the true situation of Cape Henlopen was as laid down in the place accompanying the agreement, and not where Cape Cornelius is (*i. e.* then), as the defendant (Lord Baltimore) contended, which would leave out a great part of what was intended to be included in the grant," meaning that of the Duke of York to William Penn.

How the names of Henlopen and Cornelius became transposed as they are on the maps of the present day, I leave to those who are better acquainted with "modern antiquities;" but that they have changed positions since 1732 is not susceptible of contradiction.\*

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\* The establishment of the true position of Cape Henlopen was a most important matter for the Penns, and they succeeded in showing, contrary to the allegation of Lord Baltimore, and from the testimony of the early maps, that the present Henlopen was formerly "Cornelius," and the true Henlopen, at the period of Penn's grant, was about fifteen or twenty miles more southwardly. The earliest instance of transposition, so far as we know, may be found in the Chart accompanying the "English Pilot," London, 1748, in which old Henlopen is not indicated. The plate, however, bears evidence of a date much earlier than the letter press. In Huske's Map, London, 1755, in the Harvard Library, and which we have examined, the lower cape is called "False Cape," and the upper Henlopen. Several explanations have been given of the origin of the name. Dr. E. B. O'Callaghan, in his valuable History of the New Netherlands, Vol. I., p. 73, is of the opinion it was called Hinlopen after "Hindloopen, one of the towns in Friesland;" we do not, however, find it so spelt\* in any of the numerous maps we have examined, although it is to be found in every variety of orthography.

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\* Mr. Hazard (Annals, 23) spells it "Hindlop," quoting the Grant to Godyn, from the Albany Records; but we imagine the Breviat, p. 34, which sets forth

As the Lord Chancellor had decided that Cape Henlopen should be taken to be where Cape Henlopen had been agreed to be nineteen years before, the ingenuity of the commissioners of Maryland could devise no further objections in that particular; and proceeding to operations in conjunction with those of Pennsylvania, they finally

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The first mention of it, so far as we have seen, is in the Indian Grant, made in 1629, to Samuel Godyn, where it is called "*Hinloop*;" and upon the earliest map where it occurs, that entitled "*Carta Particolare della Nuoua Belgia è parte della Nuoua Anglia*," and which Dr. O'Callaghan is of the belief was engraved in 1631, (Documentary History of New York, Vol. I.,) it is named *Hinlopen*. De Vries, the celebrated navigator, under date of 1632, calls it *Hinlopen*. (De Vries' Journal, translated by Mr. H. C. Murphy, p. 44.) He also fixes its latitude at  $38^{\circ} 20'$  which very nearly corresponds with the modern reckoning, and does not with the present cape, which, by the Coast Survey, is  $38^{\circ} 55' 48''$

Another explanation, as stated by Mr. Hazard (Annals of Penna., 5), is, that "some say it was from *Ilma Hinlop*." We have, however, been unable to discover any person of this name in any cotemporary records. A still further explanation, and which we offer, may be from the fact, that it was a local appellation derived from the natural character of the cape. The answer of Lord Baltimore (Breviat, p. 20, item 270) asserts that it was from the Dutch word *Hinlopen*, which he says signifies "going in." The object of this attempt is obvious,—it was to show that such a derivation would apply in the sense of entering or going in, to the upper cape only which projects into the Bay and whose northern side affords a shelter as the navigator sails towards Lewes, the first point on leaving the ocean where safety can best be sought and where the Break-

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the same grant, is the more correct. It is there spelt "*Hinloop*." The Exhibit of the grant is set forth in Breviat, in the following words: •

"An Exemplification or Inspeximus, under His Majesty's Great Seal of the Province of New York, of the following Record, remaining in the Secretary's Office of that Province (being proved, additionally, by two witnesses in the cause, viz., Thomas Nixon and William Vandespiegel, to contain a *true copy* and also a *true translation* of a Book of Dutch Patents, in the following words.')

[Here follows the confirmation of Godyn's Grant.]

fixed a stone at one hundred and thirty-nine perches from the cape at Fenwick's Island, "near four mulberry trees," sculptured with the arms of Baltimore on the south, and those of Penn on the north, and proceeded to run the line across the peninsula, "and ascertain the exact middle" as a point from whence to run the northwardly line to form a tangent with the semicircle at New Castle. They then run the line between the two bays in the latitude of Cape Henlopen (as agreed upon), until they reached the waters of Slaughter's Creek (not now laid down in the maps), a distance of sixty miles and two

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water is now built, while the construction put upon the word as *so translated* would not apply to the lower or true Henlopen. Unfortunately, however, for Lord Baltimore's claim, the word in the Dutch appropriate to express to go, is "*gaen*," or going—"gaende," while the word "*loopen*" signifies to run, and "*een loopinge*" "a running or a coursing" cape or shore, which very naturally may have been changed to Enlopen or Henlopen. (Hexham's "English and Nether. Dutch Dictionarie," Amsterdam, 1647.) This explanation precisely describes the character of the ancient Henlopen or False Cape, presenting, on approach, a running, vanishing, or receding point, similar to that which "Point No Point" exhibits on the Delaware, upon nearing Bridesburg.—EDITOR.

Since the above was written, the testimony of James Logan, to be found in the "Breviat," Penn *versus* Baltimore, p. 97, has, for the first time, met our eye, and which confirms the correctness of the origin of the name as we have endeavored to prove it. Logan cites Wm. Sewall's Dutch and English Dictionary, Amsterdam, 1708, to show that the word "*Loopen*" means "to run away," while "*Inloopen*" means "to run in, to flow, or stream into,"—and he thinks the latter title was, "in process of time, transferred to the more northerly and *real* cape and *entrance* in the Bay of Delaware, as more properly suiting the same." This conjecture, it appears to us, reconciles every difficulty, and shows how the transposition naturally occurred.—EDITOR.

hundred and forty-eight and a half perches, when the fruitful inventions of the Maryland commissioners, alleging that, as they had reached the waters running into the Chesapeake Bay, they had run across the peninsula, agreeably to the spirit of the articles of agreement, and insisted upon stopping. The line, however, was continued till they passed through Taylor's and part of James's Islands, a distance of sixty-nine miles and two hundred and ninety-eight and a half perches, from bay to bay. But as the commissioners of Lord Baltimore refused to proceed to ascertain the middle of the peninsula, unless their computation was adopted, it became necessary for the Penns to file a supplemental bill in chancery against Frederick, Lord Baltimore, to force him to adopt the line of sixty-nine miles and two hundred and ninety-eight and a half perches as the distance across the peninsula, from bay to bay, and ascertain its exact middle, from whence the northwardly line should be run so as to form a tangent with the New Castle semicircle, and past it to the latitude of fifteen English statute miles south of the most southern part of Philadelphia.

Whilst this bill was pending, Frederick, Lord Baltimore, tired of the litigation and expense of the disputes, which he did not probably understand, as he was then young, and perhaps finding himself driven from every possible chance of further cavil, finally entered into articles of agreement with Thomas Penn and Richard Penn in 1760, which at length effectually closed their protracted and vexatious altercations.

By this agreement it was covenanted, that the semicircle as already run should be adopted; that the distance across the peninsula, in the latitude of Cape Henlopen, should be taken to have been rightfully run at sixty-nine miles and two hundred and ninety-eight and a half perches from the stone pillar east of "the mulberry tree, at Fenwick's Island," and marked with the arms of the contracting parties; that the middle of such line should be ascertained, and a stone pillar should be fixed at that point; that from such point a northwardly line should be run, whether the same should be due north or not, so as to form a tangent with the semicircle at New Castle, drawn with a radius of twelve English statute horizontal miles, from the court house in that place, and past the said point of contact further north till it reached the latitude of fifteen miles south of the most southern part of Philadelphia; that the supplemental bill filed should be confessed; that all claim should be released to the territory within those limits then to be ascertained; and that the Penns should appoint commissioners to run the lines as yet unfinished.

These articles of agreement of 1760, between Thomas Penn, Richard Penn, and Frederick, Lord Baltimore, are well known to our courts of justice, and have been admitted in evidence without *proof*, as a state paper, with which they are presumed to be conversant. They were enrolled in chancery in England, in pursuance of a decree of that court, found amongst the papers some years ago of Dr. Ross, (1 Binn., 399,) who had some connexions with the Penns as their agent. They are not to be found

amongst the public documents of the commonwealth, but there was a copy of them taken by the secretary of that office, from the original, brought there by Samuel Riddle, Esq., who was a connexion of Dr. Ross's family, under an express written stipulation, that they should be redelivered to him after they were copied, as private property. It is to be lamented that the original was not filed, for though it has been admitted in our courts as evidence in cases of disputes, under conflicting Maryland and Pennsylvania land titles, yet if they should unfortunately be lost, the courts, I presume, would not admit the copy which was taken in a large unwieldy book, and much less the copy of a copy, unless an act of Assembly should be passed giving such copy, or copy of the copy, the character of legal evidence.

Jeremiah Dixon and Charles Mason were appointed to run the unfinished lines in 1761, and extended the western line between the two provinces to the distance of two hundred and thirty miles, and marked for one hundred and thirty miles by stone pillars, thus putting a final termination to disputed territory between Maryland and Pennsylvania. This line was afterwards designated "Mason and Dixon's line," to distinguish it from "the temporary line," run in 1739, as already related. I have never been able to see the chart or minutes of these latter surveys, as they are not amongst the public records of the Commonwealth of Pennsylvania.\*

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\* One of the original books of the field-notes of Mason and Dixon is in the possession of Mr. Ferdinand J. Dreer, of this city, which he has kindly permitted us to inspect. It is a manuscript folio of

These disputes and negotiations of the Proprietaries of Maryland and Pennsylvania are curious and interesting, as a portion of the early history of the State, and neces-

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two hundred and twenty-six pages, and the first entry is under date—"1763, November 15. Arrived in Philadelphia." The last is—"1768. Delivered to the Rev. Richard Peters, Plans of the above mentioned Lines."

The entry of each day, with some exceptions, is signed:

"CHAS. MASON,"

"JERE. DIXON."

On August 27, 1764, they speak of the manner in which they made their observations:

"The foregoing observations were made with the Transit Instrument, in the following manner: Before we left off in the evening a mark was placed at the distance of one-half or three-quarters of a mile in the line, northward. Then, after the equal altitudes were observed, the instrument was adjusted as when we gave off. A candle being placed in the centre of the mark, the middle wire in the telescope was brought to bisect the light of the candle (the line of collimation being just, and the Level proving the horizontal position of the axis). Then, the telescope being elevated to the star, the time (per watch) of the star's passing the middle (with which the line was run) wire was taken. The watch with which these observations were made, had only a minute hand, therefore the seconds must not be expected as from a good time-piece, nor does the nature of the problem require it, as the star made use of (in the tail of Urs. Minor) was, at the time of observation, nearly passing the tangent of its circle round the Pole, consequently its apparent motion very slow."

Dixon died in England, in 1777; and Mason in Philadelphia, Oct. 25, 1786. The following account of Mason was published November 11, 1786, in the Philadelphia *Independent Gazeteer*:

"On Wednesday, the 25th of October, died in this city, Mr. Charles Mason, lately from England, and author of the most accurate set of *Lunar and Solar Tables* that has ever been exhibited to the public. He was formerly employed, in conjunction with Mr. Jere-

sary and important to a proper knowledge of the land titles within the disputed territory, the covenants respecting which, in the famous agreements of 1732 and 1760, it is foreign to this sketch to exhibit or explain. The whole history of these transactions shows conclusively the fairness and candor, the moderation and firmness of Wil-

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miah Dixon, to run the boundary line between Pennsylvania and Maryland, which they executed with great skill and accuracy. Since his return to England, he has been principally employed in correcting and improving the Lunar Tables of the celebrated Professor Mayer, and has succeeded so far as to present to the Board of Longitude, in London, the best and most exact set of Lunar Tables that were ever constructed, for which they gave him, in the year 1780, seven hundred and fifty pounds sterling. But, as he had spent the most of his time since he left Philadelphia in this laborious work and had a numerous family to maintain, most of the money was anticipated before he received it, and he has now left in this city a widow with eight small children, without anything to support them but the charity of well-disposed persons and the notice of that State to which his former labors were so beneficial. His success in his former improvement of the Lunar Tables, and his perfect acquaintance with that abstruse and laborious business, had engaged him to begin another and still more accurate correction of them, but dying before he could finish the same, he left his manuscripts and papers to the Rev. Dr. Ewing, Provost of the University of Pennsylvania, requesting him, with the earnestness and zeal of an astronomer, to undertake the laborious task, and exhibit to the world an American set of Lunar and Solar Tables, which would be still more accurate than anything yet published in Europe. His former acquaintance with the Provost, as an astronomer and mathematician, induced him to leave his valuable manuscripts to him, in hopes that some way may be devised of making them useful to the world."

Mr. Latrobe, in his Address before our Historical Society, already mentioned at page 166, speaks very fully of Mason and Dixon. His Paper forms a very valuable addition to our knowledge on the subject of this celebrated survey.—EDITOR.



liam Penn, the illustrious and irreproachable founder of Pennsylvania, and the justice of the claims of his posterity, and rescues his name from the imputation of injustice.\*

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\* The failure of Lord Baltimore to establish his claim was, perhaps, in no small measure owing to the manner in which he attempted to meet the difficulties of his position. He certainly had bad advisers. His knowledge of the history of the country upon the Delaware never justified declarations to the effect—"that the Swedes and Dutch did not successively possess and enjoy, for many years after the date of the grant to Lord Baltimore, their ancient settlement on the Delaware; that they had no such settlement there, being but a few of them there, and those but itinerant traders, and if settled and inhabited, the parts so settled and inhabited were very small. \* \* \* \* That the three lower counties (now the State of Delaware) were never held by the Dutch, as belonging to New Amsterdam, nor were they since 1663 in the quiet possession of the Duke of York, nor a dependency of the province of New York. And further that Governor Andross never received possession of the lower counties from the Dutch, nor exercised any act of government or ownership within said territory or any part thereof."

All of these statements are positively opposed to history, and the Penns skilfully availed themselves of their advantage. The Swedes were in possession of the river when Stuyvesant, the Dutch Governor at New Amsterdam, proceeded to the Delaware, conquered the territory from them, and appointed a Vice-Director or Governor under him. The whole territory then became a dependency of New Amsterdam.

In 1664, Charles II. granted to his brother, the Duke of York, a very considerable region in America, and which included that claimed by the Dutch. This was followed, in the same year, by an expedition under Colonel Nicholls, who seized all the Dutch possessions, and New Amsterdam became New York. The Delaware was in due course reduced by the English, and governed under the Duke's Laws, as they were called, and by magistrates appointed by the successive Governors who were commissioned by the Duke. In 1681, a letter was addressed to the magistrates upon the Delaware, by Anthony Brockholtz, Commander at New York, which, after reciting the grant to Penn, and thanking them for "their good services, &c., done during ye time they remained under his

Royal Highness' Government," &c., directed them to "yield due obedience to ye s<sup>d</sup> Letters Patent."

With respect to the question of territorial occupation and settlement, many grants were made by the Dutch Governors, and those of the Duke of York, particularly by Andross: for, from the Breviat, we find that, between the years 1674 and 1676, one hundred and eight grants, comprising at least forty-four thousand acres, were made by him in the name of the Duke, and principally within the three lower counties; but, in view of Lord Baltimore's statement, the facts are still more remarkable, that even before Penn was born a church was here established, forts built, justice administered, trade maintained, and the soil to some extent under successful cultivation.

—EDITOR.